

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP NO. 35229 OF 2019
DATE OF DECISION : 04.12.2019**

Jaswinder Singh

...Petitioner

versus

State of Punjab and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Arun Takhi, Advocate,
for the petitioner.

Mr. P. S. Bajwa, Addl. AG, Punjab.

ARUN MONGA, J.(ORAL)

By way of present petition, the petitioner seeks quashing of impugned order dated 28.11.2019 (Annexure P-2), whereby petitioner has been transferred from Nawanshahar to Head Quarter RDE-4 Branch, Chandigarh, which is allegedly in violation of the Transfer Policy dated 23.04.2018 (Annexure P-1) issued by Government of Punjab.

2. Learned counsel for the petitioner, *inter-alia*, contends that petitioner is left with less than two years before he attains superannuation, which is due on 31.10.2021. Transfer Policy dated 23.04.2018 (applicable to the employees of the State of Punjab) envisages that those employees who are going to retire in less than three years, they are entitled to be given three suitable options and they can be posted at any of the said three.

He further contends that not only the petitioner has been denied the benefit of giving any option, but on the other hand, respondent No.5 who has been posted at his place, has been transferred for the fifth time at Nawanshahar, from where the petitioner has been transferred to Chandigarh.

3. Notice of motion.

4. On advance service of copy of petition, Mr. P.S. Bajwa, Additional Advocate General, Punjab, has put in appearance on behalf of respondent-State.

5. Given the nature of order being passed, there is no necessity to seek return by any of the respondents as no further proceedings and/or pleadings are required.

6. Transfers being matter of administrative exigencies, this Court ordinarily refrains to interfere, unless any patent illegality is made out. As regards the reliance placed by learned counsel for the petitioner on the Transfer Policy dated 23.04.2018 (Annexure P-1), this Court is conscious that the said Transfer Policy merely lays down 'guidelines' which are directory in nature and not mandatory, but at the same time, merely because the guidelines are directory in nature, would not mean that the same shall not be treated as the guiding principle while dealing with the administrative exigency of transfer. In the event, nature of exigency requires that guidelines contained in the Transfer Policy are not to be implemented, then it is expected of the competent authority to record reasons for not doing so.

Transfer order dated 28.11.2019 (Annexure P-2) impugned herein, does not spell out as to why in the ordinary course, guidelines contained in Transfer Policy were not implemented and the benefit envisaged therein, was not accorded to the petitioner.

7. In the premise, the impugned transfer order dated 28.11.2019 (Annexure P-2) shall remain suspended qua the petitioner only, with liberty to the competent authority/ respondents to pass fresh orders by treating the present writ petition as a representation, bearing in mind that the petitioner is slated to retire on 31.10.2021.

8. Let appropriate orders be passed within a period of four weeks from the date of receipt of certified copy of this order.

9. Disposed of in above terms.

(ARUN MONGA)
JUDGE

DECEMBER 04, 2019
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Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No